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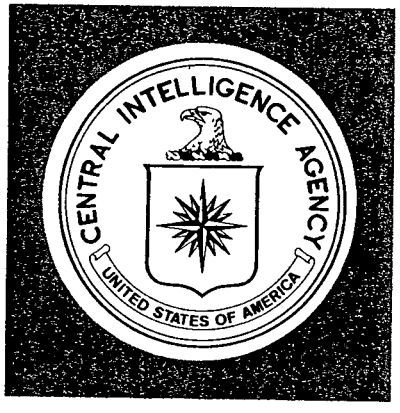

Human Rights in the Southern Cone of Latin America

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Human Rights in the Southern Cone of Latin America

Central Intelligence Agency
Directorate of Intelligence

June 1977

Key Judgments

Human rights have been violated—sometimes flagrantly—by the authoritarian military regimes that have come to power in the southern cone of Latin America. Repression, characterized by torture and other inhumane practices, has been directed for the most part at leftists, but others have been victimized as well, largely by governments reacting to real and imagined threats to stability. As a result, human rights guarantees have been subordinated to the priority concerns of imposing order on sometimes fractious societies and concentrating on economic development and growth. Our basic judgments about this pattern are that:

- Authoritarian military or quasi-military governments will remain in power for the foreseeable future and will continue to accord low priority to the human rights question.

- Improvements in human rights practices will depend more on the military's assessment of local security and insurgency conditions than on outside pressures

- Where basic reform is instituted, the process will be slow at best and may be measured only in terms of cosmetics rather than substance. Moreover, the continued existence of security apparatuses geared to repression increases the chances of retrogression.

- Where the terrorist threat has subsided, there has been a gradual easing of the worst kinds of offenses, but this trend is by no means irreversible.

- External criticism of human rights abuses in the southern cone may lead to limited improvements; reprisals by Washington will be viewed as infringements on national sovereignty, and are more likely to provoke continued defiance than serve as catalysts for improving the human rights situation in any fundamental way.

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Human Rights in the Southern Cone of Latin America

The judgment of what rights all people are entitled to enjoy is a subjective one, and it varies from culture to culture. Human rights for the purposes of this paper are defined as protection of persons from arbitrary arrest and imprisonment, torture, and murder. Although this paper addresses the relationship between authoritarianism and human rights, a broad definition of human rights that includes the right to a democratic form of government and to certain social and economic benefits goes beyond the scope of this discussion.

In trying to define human rights there are limitations in venturing generalizations about a geographic region. In the case of the five South American countries—the southern cone—discussed in this study, however, there are some common trends that can be discerned and various conclusions that can be drawn about recent developments.

The Roots of the Problem

Human rights problems are not new in Latin America. Throughout the history of the region, even so-called "democratic" governments have sometimes engaged in repression and systematic violations of basic individual rights. The notoriety of these acts—especially among the authoritarian governments—has become more pronounced in recent years because of improved worldwide communications and greater international emphasis on human rights problems.

South American military regimes today are reacting in similar fashion to real or imagined threats to order and stability and have adopted a doctrine that is stridently anticommunist, but largely antidemocratic as well. The resort to torture and other inhumane practices to suppress perceived threats to stability has been a part of this pattern.

Constitutional rule has been extinguished or drastically altered; political freedoms have been shelved; and political parties have been banned or tightly circumscribed. Where elections are still held, they are usually rigidly controlled with little doubt as to their outcome.

The protection normally afforded by the judicial process has been abrogated by the imposition of states of siege in some countries, thereby giving the military broad discretionary powers to suspend many rights and guarantees. Governments have used these emergency powers to crack down on suspected subversives. Although the target has been leftist extremists and other opponents, innocent persons have also felt the impact of arbitrary actions.

The preeminent role of the military in countering subversion in Latin America and a long-standing tolerance of highly centralized governments have reinforced the trend away from democratic practices. Once in power, the military has assumed sweeping measures to guarantee security and combat leftist influence.

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There are a number of sociopolitical factors that have facilitated this process. The first is that little value is placed on the rights of the individual. In the Latin American context, fundamental rights are not viewed as sacrosanct. The state is the arbiter of what rights are inalienable and determines how justice will be administered. The vast majority of the people, by and large, is not bothered by what happens to the fringe elements of society. In addition, although a separation of powers exists in theory, in practice the Latin American executive has usually functioned in an autocratic manner. Judicial and legislative organs, where they exist, do not have the independence that marks North American and some West European models. Moreover, in their desire for security and the preservation of their society, Latin Americans have often acquiesced in strong military rule and endured constraints on their individual freedoms.

Those who have had their rights abused tend to come from all walks of life, and their political views or activism seem to be the primary criteria that make them subjects of government repression. In many cases, young people from middle- or upper-class families who have participated in extremist movements or sympathized with leftist causes have been jailed or tortured by security services to obtain information about their associates and subversive organizations.

Among the military officers who now direct the governments of Argentina, Brazil, Chile, and Uruguay, there is a firm conviction that former civilian politicians had failed to halt a drift toward political polarization and violence in their societies. The armed forces have equated this failure with the inability of the democratic system to cope with the complex problems of Latin America's "less developed" status. Their authoritarianism has been improvised as a result and does not follow the classic pattern of military dictatorship. The old archetype of the military strongman as defender of the oligarchy and of elite interests has been supplanted by a new image of the military as catalysts of national development and progress as well as defenders of national security.

An important aspect of the trend toward military dominance in the area is the impact of the drive for modernization on the thinking of the current generation of armed forces leaders. The economic difficulties generated by political dislocations have impressed them with the need to channel their countries along a path of sustained development and growth. While most of these countries have been plagued at one time or another by runaway inflation, a lack of investment capital, or economic stagnation, their societies have been strained by the demands of a rapidly expanding urban population and middle class.

After taking power, the military has sought to guide the process of economic transformation by imposing tough and sometimes unpopular policies. A concentration on assuring political stability at any cost to guarantee a continuity of policies within a coherent modernization strategy has frequently meant that concern for basic human rights has had a very low priority.

The Southern Cone

Where the terrorist threat has subsided—in Brazil, Chile, and Uruguay—we believe there has been a gradual easing of the most offensive kinds of violations, including torture, illegal detention, and political kidnapings. Firm confirmation of this sort of information is hard to come by, but the impression held by embassy sources and independent international organizations that monitor the human rights situation in Latin America is that fewer violations in these countries have been recorded so far this year than a year ago. In general, there is no discernible pattern in the number of human rights violations in the southern cone, but as long as the repressive machinery remains in place the chances of a resurgence cannot be ruled out.

Repression by the military regime in Brazil has been mitigated, in part, during the past year or so by President Geisel's removal of officials responsible for illegal arrests and torture. Military and police organizations reportedly have orders from high-level officials to prohibit torture and other forms of mistreatment. Detainees in security cases have experienced improved conditions, but

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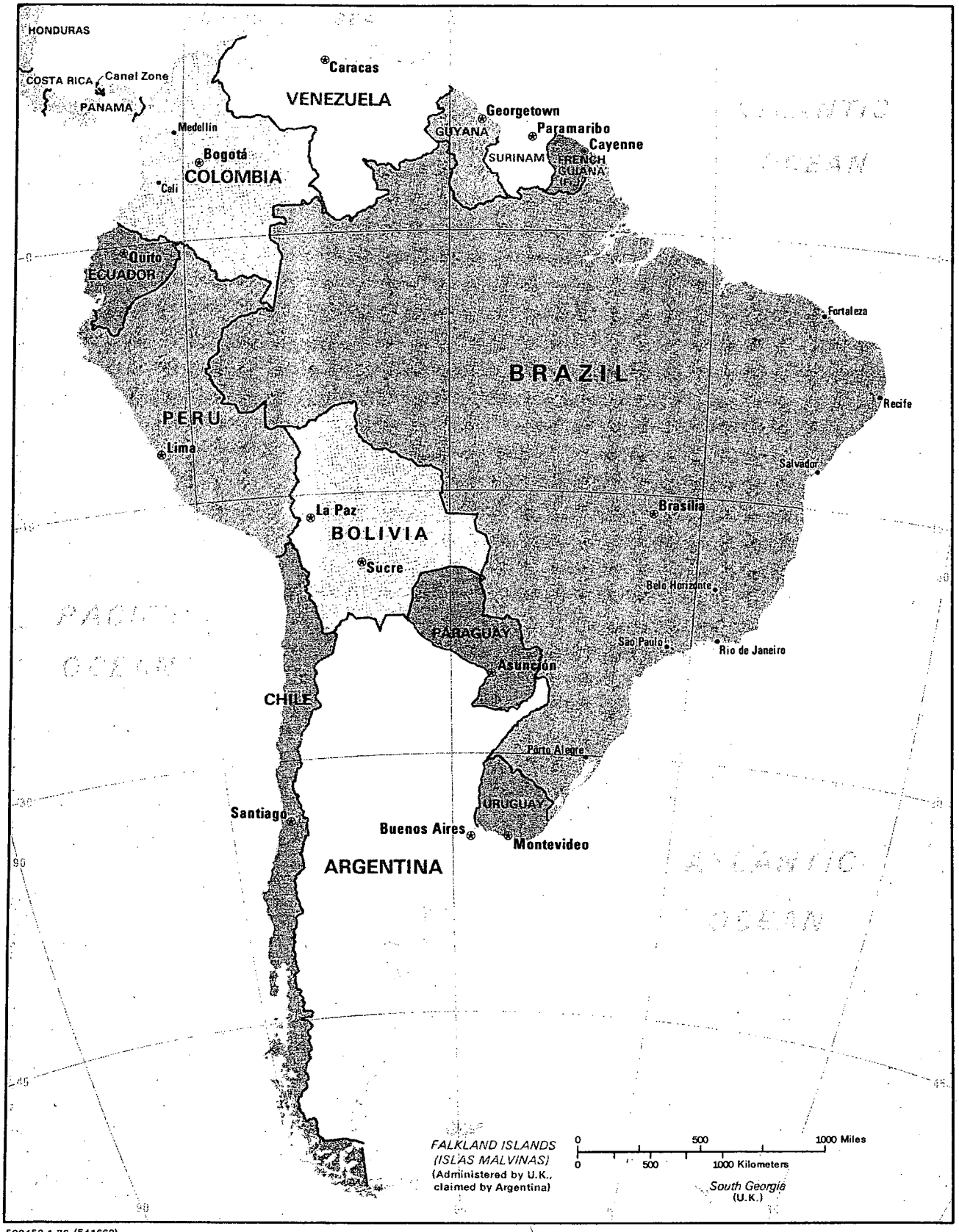
South America



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there are still occasional reports of harsh treatment and arbitrary detentions.

Although leftist guerrilla activity has virtually been wiped out in Brazil and Uruguay, Argentina is still suffering from sporadic acts of terrorism. The zealous pursuit of the remaining terrorists by Argentine security forces still gives rise to abuses. Killings and disappearances continue to characterize the antisubversive campaign, even though many hardcore terrorist leaders have been eliminated and their support apparatus gravely weakened.

Argentina may now be at a crossroads. The terrorists, although by no means out of business, are clearly on the run. This is obvious to all Argentines, and the security forces take considerable pride in their achievement. At the same time, however, there are officers who believe that the elimination of the guerrilla activists is merely the beginning and that there must now be a grand offensive against the intellectual authors of subversion to root out the basic causes of terrorism.

Should such an offensive take place, it could occur in the form of purges of school and university faculties, government bureaus, and journalistic, intellectual, and artistic circles to a degree not yet experienced. In such an environment, anyone even remotely identifiable with leftist or merely liberal views would have reason to fear for his job or position, if not his very life. Thus far, the military government has not seemed inclined to move in such a direction. From what we know, President Videla and his supporters are opposed to repressive tactics against these people.

The outcome hinges, however, on Videla's ability to control the so-called "hardline" officers, which he has been able to do so far. Some moderate officers may now be alarmed at the implications of a current investigation of prominent citizens allegedly linked to subversion. Among the hardliners, the more vengeful may want to exploit the case by exaggerating it to "prove" their contention that subversion is so deeply imbedded that extremely harsh measures are justified.

The case centers on the family and associates of a wealthy financier who are under suspicion because of the financier's purported financial assistance to the Montonero guerrillas. The number of persons implicated has grown steadily, but firm charges of subversion have been leveled against few, if any. Moreover, accusations against the principal figures have yet to be substantiated. Many of those implicated are Jewish; some occupied key positions in the Peronist government; some are journalists. One is a former military president. At least some Argentines are becoming uneasy that anti-Semitism—always close to the surface in Argentina—and political retaliation are as much behind the investigation as a genuine belief that real links to subversion exist.

Human rights problems in the smaller and more backward nations of the continent, such as Paraguay and Bolivia, have not aroused as much international attention. These isolated nations have experienced long periods of dictatorial rule, and periodic episodes of abuse are not unusual. The current lack of political turbulence probably accounts for the slight attention paid to violations within these countries. On the other hand, in cases such as Uruguay and Chile, where long traditions of civil liberties existed, the worst aspects of military repression have triggered strong protests abroad.

The military-dominated Mendez government in Uruguay has grown considerably more conscious of its poor reputation on human rights. Prior to the recent US aid cut, Uruguay appeared to be making some effort to bring improvements. In reprisal for US moves, however, military hardliners have put aside—at least temporarily—any plans for further relaxation. The Council of State earlier approved legislation reducing minimum sentences for certain kinds of activities associated with subversion but its effectiveness has not yet been shown. In November 1976, the US embassy estimated that approximately 1,800 persons were still being detained for political reasons. Instances of torture and prolonged detention have decreased, but the military retains a firm grip on the government and has extensive powers in the area of individual rights and guarantees. Most of the violations recently cited by human rights

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critics cover complaints dating back a year or more.

In Chile, the experiment with Marxism under Allende led to the end of a period of democratic rule that had extended over nearly half a century. The intervention of the armed forces in 1973 brought to power a military establishment with little practical political experience, a strong distaste for partisan politics, and no coherent program to deal with Chile's economic and political problems. The result has been the imposition of draconian measures that have made Chile an international pariah—although its human rights violations in many respects have been no worse than those of its neighbors.

Early this year, the Pinochet government appeared to be turning toward legal practice in security cases. The procedural cleanup may have been temporary, however, since new evidence of torture, illegal detentions, and "disappearances" is coming to light. This backsliding comes at a particularly bad time for Chile, since West European governments were beginning to take note of the substantial improvement in human rights practices. A renewed wave of abuse by intelligence organizations is certain to refuel the human rights controversy and provide new ammunition for Chile's critics.

Meanwhile, the courts are pressing the government on past cases, some of which are almost certain to embarrass the regime. Perhaps the most positive advance made by the government in moderating its hardline policy during 1976 was the release of some 2,700 political prisoners, leaving only about 500 still incarcerated on various charges. Civil freedoms remain rigidly restricted, however, and the outlawing of the remaining democratic parties in March was a stark reminder that open political expression is not tolerated.

The Legal and Humanitarian Aspects

While concern for human rights has generally been defined in terms of the Universal Declaration of Human Rights adopted by the UN, wide differences of opinion exist about what are violations of human rights. International requirements of states in human rights matters are, for the most part, vague and nonobligatory. Statements of good intentions about achieving minimum standards are more common than a willingness to take concrete steps to uphold them.

Where military regimes have enforced state-of-siege decrees, prisoners have been denied access to civil courts and have been deprived of such procedural safeguards as *amparo*—the Latin American juridical equivalent of habeas corpus. In some countries, summary courts martial have dealt with internal security cases, normally the most sensitive politically. These tribunals tend to deal more sternly and expeditiously with cases than the civil judiciary, which is notoriously cumbersome and inefficient in much of Latin America. Adding to the problem are the civil judges themselves and their fear that either the subversives or right-wing groups will take action against them.

Some military regimes have rewritten or are in the process of redrafting national security codes. The aim apparently is to ensure that the military has a significantly enhanced role in controlling future situations considered inimical to national security and stability. In spite of legal requisites, in practice the armed forces are likely to act on the basis of expediency rather than any firm dedication to observance of legal principles. As long as constitutional rule is in abeyance and no real independent check on executive authority exists, this situation is not expected to change dramatically.

Deference to legal propriety has been disregarded most often by intelligence and security services, which usually have wide-ranging powers and virtual autonomy in their operations. This broad mandate has been used at times to conduct activities of an illegal nature—although ostensibly designed to protect the national interest. Acting under the state of siege and other extraordinary powers, prisoners have been held incommunicado and without being charged. Authorities have been able to detain, search, and interrogate anyone at any time or place. Physical and psychological torture have been employed as devices to extract information. Such practices have generated strident criticism abroad.

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Working against abandonment of these practices in Latin America is the fact that torture has been found to be an effective tool in rooting out subversion. Intelligence services have obtained information quickly that has enabled them to foil insurgent operations, frequently by surprise. The sophistication of torture technology today is such that there are few individuals who cannot be made to reveal information or to confess to charges. Military regimes have also perceived the utility of the threat of torture to intimidate opposition political movements.

It is highly probable that the leadership in most instances has either condoned such practices outright in the past or at least turned a blind eye to them. External pressures and the reduction of an internal threat evidently are having some success in compelling a few regimes to halt the worst kinds of excesses, but there will probably be no fundamental change as long as these governments deem it necessary to resort to extreme measures against their "enemies."

Obstacles to Reform

The new breed of military ruler in South America has been slow to respond to charges of human rights violations but quick to voice annoyance with what they see as external "meddling" in matters they believe fall exclusively within their sovereign prerogative. Most have insisted that if the rights of a minority have been disregarded, it has been to protect the rights of the majority from internal subversion.

Military and security forces consider themselves to be the front line of defense against a relentless Communist offensive in which they are also usually a prime target. Reinforcing this siege mentality is the officers' conviction that what they are doing is in the highest national interest. They also believe that their mission is partly one of saving Western Christian civilization from Communism, a task that they think has been abandoned by a weakened and divided US. They point to detente as evidence that US accommodation with Communist countries is a sellout and an invitation to infiltration of alien ideas.

Another closely related factor contributing to the military's rationale that its ironhanded methods are correct is the evident lack of strong opposition on the part of a substantial portion of the population. Most Latin Americans do not view human rights per se as a domestic problem. Indeed, the vast majority is unaffected by the brutal treatment inflicted on a minority considered to be extremists.

The Latin perception of the human rights situation is quite different from that of other Western nations, where it is seen from a different cultural perspective. In countries such as Uruguay and Argentina, where rampant terrorism has caused the most fear and apprehension among substantial elements of the population, the restoration of order by other than legal means has been viewed as a nasty but unavoidable business.

The traditional inclination of Latin Americans to accept authoritarianism may also increase the tendency to overlook behavior that is unacceptable elsewhere. Many Latin Americans have been prone to dismiss criticism from abroad as simply ill-informed or Communist-inspired.

In Chile, the violent and chaotic conditions of the Allende years left a deep scar on the nation, and internal support for the junta was impressive, if not universal, at the outset. Disillusionment has set in during the past several years, but the absence of free opinion makes it difficult to judge the extent of support for the junta or its opponents. Many people are not effusive about the methods of the austere military regime, but have accepted the necessity for it while expressing guarded optimism that gradual improvement is possible.

For most of these governments, however, the future of democratic institutions does not appear bright. Whatever form of government evolves under military auspices, the authoritarian infrastructure is not likely to change sub-

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stantially. Because they have come to power by extraconstitutional means, these governments will probably attempt to compensate for their lack of legitimacy by creating a new institutional framework that reflects and reinforces their own doctrines and ideas. This process probably will offer a few openings for a loosening of the present restrictions on human rights.

Reaction to Foreign Criticism

Criticism by the US and the suspension of aid to Uruguay, Argentina, and Chile have provoked a sharp reaction. Much of the outburst stemmed from a belief that Latin America is being unfairly discriminated against by economic reprisals since Communist nations receive little more than a tongue-lashing. Indignation rose even higher when Latins saw South Korea and the Philippines being granted exceptions because of their security value to the US. Latin Americans resent the insinuation that they are not important to the US.

Latin pique over the US position has been manifested by a conspicuous cooling in relations and, in some cases, the rejection of US aid. The Brazilians acted to terminate military agreements with the US. Argentina made clear that eradication of terrorism will be undertaken by whatever means the military government deems necessary, even if it entails a deterioration in relations with the US. Chilean leaders signaled their displeasure by cracking down on political opponents—particularly former president Frei's Christian Democrats—and by vowing that no further concessions would be made to world opinion, which the Chilean junta believes it cannot appease in any case.

The irritation expressed by the southern cone governments to US chiding on human rights will subside eventually, but the issue seems likely to remain an underlying source of trouble. As tempers cool and military leaders have a chance to reflect on the situation, attitudes may shift enough to permit renewed movement toward moderation.

International censure has had a measurable impact on the human rights situation, in large part because of the efforts of the world press to draw attention to the problem. In Argentina, for instance, the much publicized habeas corpus petitions filed by relatives on behalf of 425 persons whose whereabouts are unknown appear to have prompted the Supreme Court to ask for an investigation by the government.

In addition, organizations such as Amnesty International, the International Commission of Jurists, and the human rights commissions of the UN and the OAS have participated in investigating or publicizing human rights violations. Other groups such as the International Committee of the Red Cross and the International Committee for European Migration have aided in resettlement of political refugees and monitoring of humanitarian conditions. The Catholic Church has been an outspoken source of criticism and has facilitated some improvements in Brazil and Chile; in Argentina it recently issued its first formal condemnation of human rights abuses. In a number of instances, the release of political prisoners, the reduction of torture and illegal disappearances, and better conditions for political prisoners can be attributed to the cumulative efforts of these groups.

Political and economic pressures—such as withholding loans or making arms sales—exerted by other governments have also compelled change in the human rights situation, but the results have varied from country to country and are difficult to evaluate. Where such actions have had a corrective influence, they have not always been without unfortunate side effects. As a quid pro quo for their steps to curb abuses, the military governments expect some recognition of their efforts. The unfavorable image of most of these governments abroad, however, is such that the slow pace in restoring fundamental rights does little to appease their critics.

Private diplomatic persuasion has been used with some limited success to influence the course of human rights protection, but there is no assurance that the device will work in the absence of other means of leverage. Given the

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drawbacks of using the stick, however, the value of using the carrot may be increasing.

An approach tailored for each country that recognizes and applauds even small steps taken to limit human rights violations may induce concessions from governments that employ murder, torture, and kidnaping as weapons against their enemies. But southern cone regimes will continue to be suspicious of US motives as well as of initiatives for international oversight that appear to interfere with their sovereign national rights.

With the restrictions now placed on some of these governments by the US in the areas of economic and military aid, there may be a limited amount of leverage available to achieve substantial new improvements. The Latins have balked at what they believe is a US plan to use aid as a weapon, and they are certain to react negatively to any further moves they consider punitive. Chile, Brazil, and Argentina are already looking elsewhere for military hardware that they cannot procure from the US.

To avoid being further isolated at the international level, the countries of the southern cone may find it prudent to take a new look at possible policy adjustments. They will only do so, however, at a time when it does not appear that they are bowing to foreign pressures. An easing of repression is more likely to result from evolutionary forces within the society than from external demands for change, which tend to bolster a siege mentality.

An Inter-American Challenge?

All of the Latin American nations have signed the Universal Declaration of Human Rights, and most of them have incorporated it in their respective constitutions. The Chapultepec conference of American states, which met in 1945 to lay the groundwork for the postwar reorganization of the inter-American system, adopted a resolution appealing for the international protection of human rights. Since then the Organization of American States has included provisions on human rights, which are further strengthened by amendments to the Protocol of Buenos Aires concluded in 1967. Noncompliance with these statements of principle has been the rule more often than the exception.

Recommendations have occasionally been made in Latin America favoring enforcement of basic human rights, but misgivings over possible encroachments on sovereign rights have prevented agreement on any solution. As early as 1945, a Uruguayan foreign minister called for "multilateral collective action, exercised with complete unselfishness" to bring about the "reestablishment of essential rights" in any country suffering under dictatorship. The US gave unqualified support to the idea, but a majority of the American republics turned it down.

The inter-American convention adopted by the OAS Council in 1968 provided for the creation of an Inter-American Court of Human Rights. Compulsory judgment was to be optional, however, and the court has never been used to settle a human rights dispute because of the special sensitivity of Latin Americans to the question of intervention.

Despite the recent dismal record of Latin American states in upholding human rights, the Inter-American Commission on Human Rights, functioning under the OAS, has scored relatively high marks in the past for acting on complaints and undertaking investigations. It has used its powers more boldly than most other regional or international organizations. Its observers have periodically exercised a close supervisory role in monitoring and bringing human rights problems to the attention of governments in the Americas.

The commission has encountered obstacles in fulfilling its objectives. Nevertheless, it is dedicated to impartial fact gathering and to exposure of the more flagrant violations of basic liberties and might well be the most acceptable and workable solution to the question of how to effect action on human rights abuses. This, of course, would depend greatly on the extent

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to which political realities permit even the present commission to operate evenhandedly and to muster majority support for compliance with adequate safeguards.

Members of the commission made an on-the-scene visit to Chile in 1974, but OAS inertia in dealing with the group's findings has done much to immobilize it since then. In any case, Latin Americans would probably prefer dealing with the OAS than with the UN. Relations between Chile and the UN Human Rights Commission have been strained since July 1975, when President Pinochet reneged on a promise to allow a visit by a UN fact-finding mission. While the Chilean junta is hypersensitive to outside attacks on its human rights record, it believes a more sympathetic hearing can be obtained from the American states than from radical third world countries in the UN.

Multilateral representations on human rights make the US less vulnerable to charges of great power coercion. The OAS Secretary General, for example, might serve as a moderating force in encouraging greater hemispheric respect for human rights.

Outlook

We expect that the South American governments singled out most frequently for human rights infractions will remain authoritarian for the foreseeable future. In the absence of any realistic challenges, there is no current alternative to the military as arbiters of power. Respect for human rights will be largely dependent on the military's judgments regarding internal security conditions or local insurgency—not outside pressures.

Where progress occurs, it will be a slow process. Ameliorative action to correct the worst abuses of human rights will probably be taken in the short term, but real movement toward broader liberalization measures is less likely within the next few years.

The ruling generals in most of the southern cone share similar views on enforcing stability—if necessary, by repressing any activity they consider threatening, particularly from the left. The military's mission, as the Chilean junta has stated in its Declaration of Principles, is one of "cleansing our democratic system from the vices that facilitated its destruction."

These countries will remain sensitive to international opinion and will weigh their responses in terms of the potential costs, such as increased isolation or economic and political reprisals. As they comprehend the earnestness of the US commitment on human rights, the principal offenders may strive to alleviate some US concerns, to contain further antagonism over the issue, and to restore some balance to bilateral relations.

On the debit side, it is evident that US-Latin American relationships are apt to be strained for some time over the human rights issue. Continued resentment and defiance on the part of some Latin American governments could persuade them to side more actively in international forums with third world initiatives that run contrary to US interests. If pressures were reduced, on the other hand, these governments might continue to rely on repression and stall on taking measures to liberalize their regimes.

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